

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SS-15
NSC-05 H-01 /057 W
-----091514 091005Z /20

P 090920Z JAN 78
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC PRIORITY 5091
INFO AMEMBASSY LONDON
AMEMBASSY WARSAW

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E.O. 11652: N/A
TAGS: EAIR, AU, UK, PL
SUBJECT: CIVAIR: PANAM SERVICES TO VIENNA AND BEYOND

REF: A. VIENNA 1132, B. VIENNA 1084

IN RESPONSE TO EMBASSY'S NOTES BASED ON POINTS IN STATE
12240 AND 23969, WE HAVE RECEIVED THE FOLLOWING NOTE FROM
GOA. QUOTE NOTE VERBALE: IN THE COURSE OF TALKS WHICH
TOOK PLACE IN MARCH 1975 BETWEEN AN AUSTRIAN AND A U.S.
DELEGATION, THE AUSTRIAN SIDE STATED THAT, IN THE FUTURE,
BECAUSE RELEVANT INTERESTS OF THE AUSTRIAN AIRLINES MUST
BE TAKEN INTO CONSIDERATION, IT WOULD NOT BE POSSIBLE TO
COUNT ON OBTAINING FIFTH FREEDOM RIGHTS IN EUROPE. THIS
WAS CLEARLY EXPRESSED IN THE OPENING STATEMENT OF THE
AUSTRIAN DELEGATION AND, IN CONFORMITY WITH THIS AUSTRIAN
STATEMENT, WAS WRITTEN INTO THE MEMORANDUM OF CONSULTA-
TIONS OF MARCH 20, 1975.

WHEN THE PANAM PLANS TO OPERATE A ROUTE FROM VIENNA VIA
LONDON TO THE U.S.A. BECAME KNOWN TO THE AUSTRIAN AUTHORI-
TIES, THE AUSTRIAN EMBASSY INFORMED THE STATE DEPARTMENT
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ON OCTOBER 27, 1977 THAT THE GRANTING OF TRAFFIC RIGHTS ON
THIS ROUTE CANNOT BE COUNTED UPON. ON OCTOBER 31, 1977
THE AVIATION OFFICE OF THE STATE DEPARTMENT TOOK NOTE OF
AUSTRIA'S ADVANCE NOTIFICATION AND EXPRESSED ITS APPRECI-
ATION FOR THE TIMELY INFORMATION WITHOUT MAKING FURTHER
COMMENT. ON THIS OCCASION, THE AMERICAN SIDE INFORMED THE
AUSTRIAN EMBASSY IN WASHINGTON THAT, IN CASE U.S. AUTHORI-

TIES SHOULD WISH TO DISCUSS THE SUBJECT, THEY WOULD INFORM THE AUSTRIAN SIDE IN DUE TIME.

INDEPENDENT FROM THE GENERAL UNCERTAINTY OF THE FIFTH FREEDOM QUESTION IS THE FLIGHT PLAN CONFIGURATION OF PAN-AM WHICH PROVIDES FOR A CHANGE OF AIRCRAFT (CHANGE OF GAUGE) IN LONDON, AND WHICH IS NOT COVERED BY THE AIR TRANSPORT AGREEMENT OF 1966. AS U.S. AUTHORITIES ARE AWARE, ACCORDING TO GENERAL PRACTICE IN INTERNATIONAL CIVIL AVIATION, A SPECIAL NOTIFICATION WOULD HAVE BEEN REQUIRED TO THE EFFECT THAT A CHANGE OF GAUGE WOULD BE IN CONFORMITY WITH THE AGREEMENT. WITHOUT SUCH A STIPULATION IN THE AIR TRANSPORT AGREEMENT, A CHANGE OF AIRCRAFT TO SERVE THE ROUTE LONDON-VIENNA-LONDON IS NOT POSSIBLE.

IN THIS CONNECTION IT SHOULD BE REMEMBERED THAT, IN 1974 PANAM VOICED THE INTENTION OF CONDUCTING A FLIGHT FROM NEW YORK TO BERLIN AND BACK USING A SMALLER AIRCRAFT TO VIENNA. AT THAT TIME THE SUPREME CIVIL AVIATION AUTHORITY OF THE AUSTRIAN FEDERAL MINISTRY OF TRANSPORT STATED THAT SUCH A PROJECT WAS CONTRADICTORY TO THE AUSTRO-AMERICAN AIR TRANSPORT AGREEMENT OF 1966, SINCE THE ROUTE SCHEDULE OF A U.S. COMPANY'S AIR SERVICE MUST START FROM THE TERRITORY OF THE UNITED STATES OF AMERICA. THE COMPETENT U.S. AUTHORITIES HAVE BEEN INFORMED OF THIS INTERPRETATION OF THE AGREEMENT AND HAVE NOTED THE SAME WITHOUT OBJECTION.

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IN THE "NOTE VERBALE" OF THE EMBASSY OF THE UNITED STATES OF AMERICA DATED JAN 31, 1978, ARTICLES 9-11 AND 12(A) OF THE AIR TRANSPORT AGREEMENT ARE CITED. IN THIS CONNECTION THE AUSTRIAN SIDE WOULD LIKE TO SAY THE FOLLOWING:

TO ARTICLE 9:

THIS ARTICLE, ACCORDING TO AUSTRIAN INTERPRETATION, IS NOT APPLICABLE, SINCE A ROUTE VIENNA-LONDON-VIENNA IS NOT PROVIDED FOR IN THE ROUTE PLAN OF THE AGREEMENT.

TO ARTICLE 10:

SIX WEEKLY FLIGHTS OF PANAM BETWEEN VIENNA AND LONDON WITH ALL TRAFFIC RIGHTS WOULD ENCROACH DETREMENTALLY ON THE TRAFFIC OF AUSTRIAN AIRLINES. FOR THIS REASON, IN THE OPINION OF THE COMPETENT AUTHORITIES, THIS ARTICLE IS THAT WHICH IS PRIMARILY IN CONTRADICTION TO PANAM'S PLAN.

TO ARTICLE 11:

THIS ARTICLE SPECIFIES THAT FLIGHT SCHEDULES MUST BE QUOTE IN CLOSE RELATION TO PUBLIC TRAFFIC DEMAND UNQUOTE. ON THE BASIS OF TRAFFIC FIGURES FOR 1977, THE SUPREME CIVIL AVIATION AUTHORITY OF THE AUSTRIAN FEDERAL MINISTRY OF TRANSPORT ESTIMATES THE TRAFFIC VOLUME FROM VIENNA TO POINTS ON THE WEST COAST OF THE U.S.A. AND HONOLULU FOR THE MONTHS OF MARCH AND APRIL AT A MAXIMUM OF 400 TO 500 PASSENGERS PER MONTH IN ONE DIRECTION; THIS WOULD

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NSC-05 H-01 /057 W
-----091529 091004Z /11

P 090920Z JAN 78
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MEAN, BASED ON SIX WEEKLY FLIGHTS, BETWEEN 15-20 PASSENGERS PER FLIGHT. IN THE AUSTRIAN VIEW, THIS NUMBER OF PASSENGERS CANNOT JUSTIFY OPERATING AN AIRLINE.

ON THE AUSTRIAN SIDE, IT IS FEARED THAT PANAM IS COUNTING PRINCIPALLY ON TRAFFIC BASED ON FIFTH FREEDOM RIGHTS. ON THE OTHER HAND, AS THE AUSTRIAN SIDE SEES IT, TRAFFIC REQUIREMENTS WHICH PRIMARILY TEND TOWARDS NEW YORK DO NOT SEEM TO BE TAKEN INTO ACCOUNT.

TO ARTICLE 12(A):

IN THIS CONNECTION, THE AUSTRIAN SIDE MUST NOTE THAT A ROUTE VIENNA-LONDON-VIENNA IS NOT FORESEEN IN THE FLIGHT PLAN AND THEREFORE THIS ARTICLE IS LIKEWISE NOT APPLICABLE.

IN THE NOTE OF THE EMBASSY OF THE UNITED STATES OF AMERICA DATED JANUARY 26, IT IS NOTED THAT THE AIR TRANS-

PORT AGREEMENT OF 1966 CONCEDES TO THE UNITED STATES OF AMERICA NO RIGHT TO SERVE WARSAW VIA VIENNA. THE AUSTRIAN SIDE, HOWEVER, WOULD HAVE NO OBJECTION TO AN LIMITED OFFICIAL USE

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EXPANSION WITHOUT CONCESSION TO TRAFFIC RIGHTS. THE AUSTRIAN SIDE WILL GLADLY AGREE TO A DESIRE FOR AUSTRO-AMERICAN NEGOTIATIONS CONCERNING MODIFICATIONS TO THE AIR TRANSPORT AGREEMENT OF 1966, WHICH IS STATED IN THE ABOVE-REFERENCED NOTE VERBALE. AUSTRIA IS, AS HAS ALREADY BEEN STATED BY TELEPHONE, PREPARED FOR IMMEDIATE NEGDTIA-TIONS - IF POSSIBLE DURING THE PERIOD FEBRUARY 14-17, 1978

WITH REFERENCE TO PANAM'S APPLICATION DATED JANUARY 10, 1978, A FORMAL DECISION OF THE SUPREME CIVIL AVIATION AUTHORITY OF THE AUSTRIAN FEDERAL MINISTRY OF TRANSPORT WILL BE ISSUED IN THE NEXT FEW DAYS. VIENNA, FEBRUARY 7, 1978. UNQUOTE WOLF

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR SCHEDULES
Control Number: n/a
Copy: SINGLE
Draft Date: 09 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978VIENNA01205
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780060-1033
Format: TEL
From: VIENNA
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Image Path:
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Legacy Key: link1978/newtext/t19780183/aaaacrzp.tel
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Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 VIENNA 1132, 78 VIENNA 1084
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3804342
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: PANAM SERVICES TO VIENNA AND BEYOND
TAGS: EAIR, AU, UK, PL, US, PANAM
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/e1b26de5-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014